

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MIKE SHALES, JOHN BRYAN Sr., AL
OROSZ, JOSEPH MANN, TOBY KOTH and
GORDON ANDERSON as Trustees of THE
FOX VALLEY LABORERS' HEALTH AND
WELFARE FUND,**

and

**MIKE SHALES, JOHN BRYAN Sr., AL
OROSZ, TOBY KOTH, GORDON
ANDERSON and DAN BREJC as Trustees of
THE FOX VALLEY LABORERS' PENSION
FUND,**

Plaintiffs,

v.

**MASONRY STRUCTURES, INC., MICHAEL
DALLESASSE, individually and doing business
as MASONRY STRUCTURES, INC., and
ROBIN DALLESASSE, individually and doing
business as MASONRY STRUCTURES, INC.,**

Defendants.

Case No. 06 C 6422

Judge Ronald Guzman

Magistrate Judge Denlow

MOTION FOR ENTRY OF AGREED JUDGMENT ORDER

Plaintiffs, MIKE SHALES, JOHN BRYAN, Sr., AL OROSZ, JOSEPH MANN, TOBY KOTH and GORDON ANDERSON as Trustees of THE FOX VALLEY LABORERS' HEALTH and WELFARE FUND ("Welfare Fund") and MIKE SHALES, JOHN BRYAN Sr., AL OROSZ, TOBY KOTH, GORDON ANDERSON and DAN BREJC as Trustees of THE FOX VALLEY LABORERS' PENSION FUND ("Pension Fund") (collectively, "the Funds"), through their attorneys, Dowd, Bloch & Bennett, respectfully moves this court for an entry of an Agreed Judgment Order, in the form of the attached proposed order, against Defendants MASONRY STRUCTURES,

INC. (hereinafter "Defendant Company"), MICHAEL DALLESSASSE, individually and doing business as MASONRY STRUCTURES, INC. and ROBIN DALLESSASSE, individually and doing business as MASONRY STRUCTURES, INC., state as follows:

1. This is a collection action against Defendants for delinquent reports and contributions due to employee fringe benefit funds under Section 515 of ERISA, 29 U.S.C. § 1145 and delinquent union dues and industry fund contributions enforceable under Section 301 of the Labor-Management Relations Act ("LMRA"), 29 U.S. C. § 185.

2. The Funds filed a Complaint on November 22, 2006, seeking the following relief from the Defendants:

(a) That Judgment be entered in favor of the Plaintiffs and against the Defendants , finding that the Defendants are liable to the Funds and Affiliated Organizations for the delinquent contributions owed to date, dues, interest, liquidated damages, attorneys' fees and court costs;

(b) That the Defendants be ordered to pay to Plaintiffs all delinquent contributions to date, all accrued delinquencies prior to and after the filing of this suit, interest and liquidated damages;

(c) That the Defendants be ordered to pay to Plaintiffs all reasonable attorneys' fees and costs incurred in pursuing collections; and

(d) For such other legal and equitable relief as the Court deems just and proper.

3. The Defendants were each served with a summons and a copy of the Complaint on December 7, 2006. Their respective Answers were each due on December 27, 2006. Return of Service for each Defendant was filed with the Clerk of the Court on December 19, 2006. A copy

of each filing is attached as Group Exhibit A. As of the date this Motion was filed, none of the Defendants had filed an appearance and/or answered or otherwise plead to the Complaint.

4. In order to prevent further litigation of this matter and to avoid accrual of additional attorneys' fees and costs, on or about January 10, 2007, the parties reached an Agreement, a term of which requires that a Judgment be entered against the Defendants, jointly and severally, in the amount of \$67,700.84 for the following:

Contributions (06/06-12/06)	\$ 96,402.78
20% Liquidated Damages (06/06-11/06)	\$ 17,882.67
10% Liquidated Damages (Dues)	\$ 205.95
Attorneys' Fees & Costs	<u>\$ 3,126.39</u>
Total	<u>\$117,617.79</u>
Less Credit on the Account	(\$ 3,021.18)
Prior Payment	<u>(\$ 46,895.77)</u>
Judgment Amount	\$ 67,700.84

5. The parties further agreed that this amount must be paid within 10 days of the entry of the Judgment, payable by certified funds and that the Defendants shall provide to the Plaintiffs a list of accounts receivables within 5 days of entry of the Judgment.

6. The parties also agree that the judgment amount is based solely on the employees/hours reported to the Funds by the Defendants for the delinquent period of June 2006 through December 2006, and that the Funds may audit any unaudited period and collect any additional amounts that are determined to be due based on non-reported hours of the Company.

7. The parties have discussed the terms of this Agreement in detail and the Defendants have had an opportunity to review the proposed Agreed Judgment Order and are in agreement with the entry of this Judgment Order.

WHEREFORE, for the reasons stated above, Plaintiffs respectfully request this Court to

enter an Agreed Judgment Order against Defendants MASONRY STRUCTURES, INC., MICHAEL DALLESASSE, individually and doing business as MASONRY STRUCTURES, INC., and ROBIN DALLESASSE, individually and doing business as MASONRY STRUCTURES, INC., in the form of the attached proposed Agreed Final Judgment Order, in the amount of **\$67,700.84**.

Respectfully submitted,

/s/LaKisha M. Kinsey-Sallis
LaKisha M. Kinsey-Sallis
One of Plaintiffs' Attorneys

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